

These notes relate to the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016 (asp 2) which received Royal Assent on 14 January 2016

INQUIRIES INTO FATAL ACCIDENTS AND SUDDEN DEATHS ETC. (SCOTLAND) ACT 2016

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Inquiry procedure rules

Section 36 – Power to regulate procedure etc.

113. **Section 36** gives the Court of Session a broad power to make acts of sederunt concerning the procedure and practice to be followed in FAI proceedings (“FAI rules”). “FAI proceedings” in this context means the whole FAI court process and not only the inquiry hearings.
114. Subsection (1) contains a broad general power to make provision regarding practice and procedure. Subsection (2) contains some specific illustrative examples of the sort of matters about which provision may be made. For example, rules can be made in relation to witnesses and evidence (which may be used to further empower the sheriff to focus the evidence led on matters of concern to the inquiry having regard to its purpose), the conduct and management of FAI proceedings, the forms of documents used, and action to be taken before the FAI commences. However, this does not limit the broad power in subsection (1), which is a substantial widening of the power to regulate practice and procedure in FAIs.
115. Subsections (4) and (5) require the Court of Session to consult with the Scottish Civil Justice Council when making acts of sederunt which were not prepared in draft by the Council.